

RECREATION & COMMUNITY ENHANCEMENT COMMITTEE

A G E N D A

TOWN OF CHINCOTEAGUE

August 21, 2007 - 6:30 P.M. – Council Chambers - Town Hall

CALL TO ORDER

ROLL CALL

OPEN FORUM / PUBLIC PARTICIPATION

AGENDA ADOPTION:

-
1. Maintenance Code Review
 2. Playground Equipment Assessment (by Jared Anderson)
 3. Committee Member Comments

ADJOURN:

MEMORANDUM

To: Parks, Recreation, and Community Enhancement Committee

Via: Mr. Robert Ritter, Town Manager

From: Mr. Jared B. Anderson, Town Planner

Date: August 17, 2007

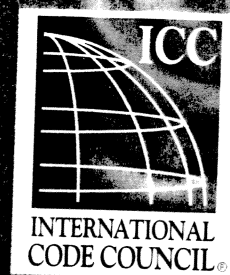
Subject: Possible Maintenance Code

Please review and if you have any questions please feel free to contact me (email: jared@chincoteague-va.gov, or 336-6519).

The staff would like to introduce the concept of implementing a Property Maintenance Code on Chincoteague. There are two attachments that may help introduce this concept to the Committee. The first attachment is the “International Property Maintenance Code, 2000” published by the International Code Council (ICC). The staff highlighted Sections 108, 109, 110, 301, 302, 303, 304, 305, and 306 of the Code. Please come by the office if you would like to see the entire Code book.

The second attachment is from the Virginia Beach Municipal Code which shows part of “Chapter 23- Offenses Miscellaneous.” This ordinance might be a good example with which the committee can begin discussions of possibly implementing a property maintenance code.

International Property Maintenance Code



2000

sence of recognized and accepted test methods, the code official shall approve the testing procedures.

105.3.2 Testing agency. All tests shall be performed by an approved agency.

105.3.3 Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

105.4 Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

SECTION 106 VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

106.2 Notice of violation. The code official shall serve a notice of violation or order in accordance with Section 107.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

SECTION 107 NOTICES AND ORDERS

107.1 Notice to owner or to person or persons responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in Sections 107.2 and 107.3. Notices for condemnation procedures shall also comply with Section 108.3.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.

2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
5. Inform the property owner of the right to appeal.

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

107.4 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

107.5 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

108.3 Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

108.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

108.5 Prohibited occupancy. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

108.6 Removal of placard. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a build-

ing or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

109.3 Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 110 DEMOLITION

110.1 General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

110.2 Notices and orders. All notices and orders shall comply with Section 107.

CHAPTER 3

GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit or premises which they occupy and control.

301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches (254 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abut-

ting or adjacent public or private property or that of another tenant.

302.7 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

302.7.1 Gates. Gates which are required to be self-closing and self-latching in accordance with the *International Building Code* shall be maintained such that the gate will positively close and latch when released from a still position of 6 inches (152 mm) from the gatepost.

302.7.2 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

302.8 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

SECTION 303 EXTERIOR STRUCTURE

303.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

303.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

[F] 303.3 Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

303.4 Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

303.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

303.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

303.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

303.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

303.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

303.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

303.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

303.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

303.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

303.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

303.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

303.14 Insect screens. During the period from [DATE] to [DATE], every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

303.15 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

303.16 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

303.17 Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

SECTION 304 INTERIOR STRUCTURE

304.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

304.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

304.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.

304.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

304.5 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 305 RUBBISH AND GARBAGE

305.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

305.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

305.2.1 Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

305.3 Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

305.3.1 Garbage facilities. The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container.

305.3.2 Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

SECTION 306 EXTERMINATION

306.1 Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

306.2 Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

306.3 Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

306.4 Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.

306.5 Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

Virginia Beach, Virginia

Municipal Code

Chapter 23 Offenses Miscellaneous

Sec. 23-48. Open storage of rusted, junked, etc., machinery, equipment, etc.

(a) It shall be unlawful for any person to place or leave, on any property in the city, any dilapidated furniture, appliance, machinery, equipment, building material or other item, which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition and which is not completely enclosed within a building. Any such item which remains on the property for a period of seven (7) days after notice of violation of this section is given to the owner of such property shall be presumed to be abandoned and subject to being removed from the property by the city or its agents without further notice. In the event any such item is so removed, the cost of removal, including an administrative fee in the amount of one hundred dollars (\$100.00), shall be charged to the owner of the property. Any such charge which is not paid within thirty (30) days of the date on which it is billed to the owner shall constitute a lien upon the property and may be collected in any manner provided by law for the collection of taxes.

(b) This section shall not apply to any licensed junk dealers or establishments engaged in the repair, rebuilding, reconditioning or salvaging of equipment.

(c) A violation of this section shall constitute a class 1 misdemeanor. In addition to any other remedy provided herein, the code enforcement administrator may institute legal action to enjoin the continuing violating of this section.

(d) The provisions of this section shall not apply to any parcel of land greater than one acre in size which is located in an agricultural zoning district and used principally for agricultural or horticultural purposes.

(Ord. No. 1016, § 17-12(B), 1-14-80; Ord. No. 1917, 10-2-89; Ord. No. 1930, 10-23-89; Ord. No. 2130, 5-12-92; Ord. No. 2205, 2-9-93; Ord. No. 2469, 1-13-98)

Sec. 23-49. Abandoned or discarded refrigerators and other airtight containers.

(a) It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two (2) cubic feet of clear space which is airtight, without first removing the door or hinges from such icebox, refrigerator, container, device or equipment.

(b) This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed or is being used for display purposes by any retail or wholesale merchant or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) Any person violating any of the provisions of this section shall be guilty of a class 3 misdemeanor.

(Code 1965, § 23-26; Ord. No. 1016, § 17-12(C), 1-14-80)

State law references: Similar provisions, Code of Virginia, § 18.2-319.

Sec. 23-50. Accumulations of trash, garbage, etc., or excessive growth of weeds or grass.

(a) Except as provided in subsection (e) hereof, upon determination by the director of housing and neighborhood preservation, the code enforcement administrator, or any inspector of the department of housing and neighborhood preservation, whether temporarily or permanently employed as such, that there exists upon any land or premises within the city, including the area between such land or premises and the curb line, any trash, garbage, refuse, litter or similar substances, except as may be placed thereon for purposes of collection in accordance with chapter 31 of this Code, notice shall be served on the owner of such land or premises or his or her agent, or on the occupant thereof, or both, to cause such trash, garbage, refuse, litter or similar substances to be removed from such land or premises within seven (7) days from the date of such notice.

(b) Except as provided in subsections (e) and (f) hereof, upon determination by the director of housing and neighborhood preservation, the code enforcement administrator, or any inspector of the department of housing and neighborhood preservation, whether temporarily or permanently employed as such, that there exists on any land or premises within the city, including the area between such land or premises and the curb line, any grass, weeds, brush or similar vegetation in excess of ten (10) inches in height, notice shall be served on the owner of such land or premises or his or her agent, or on the occupant thereof, or both, to cause such grass, weeds, brush or similar vegetation to be cut and removed from such land or premises within seven (7) days from the date of such notice.

(c) Service of the notice provided for in subsections (a) and (b) shall be by first-class mail, personal delivery or posting in a conspicuous place upon the land or premises; provided,

however, that if the land or premises are unoccupied and the owner or his or her agent cannot be found by the exercise of due diligence or are unknown, such notice shall be sufficient against the owner if given by first-class mail to the owner's last known mailing address and posted in a conspicuous place upon the land or premises. The code enforcement administrator and inspectors of the department of housing and neighborhood preservation are hereby authorized to deliver or post such notices. One notice (as provided for in subsection (b)) per growing season is hereby deemed reasonable notice to owners of vacant developed or undeveloped property to authorize the city to remove or contract for the removal of any excessive growth of grass, weeds, brush or similar vegetation for the entire growing season.

(d) Failure to comply with the terms of a notice issued and served as provided in this section within the time prescribed in such notice shall constitute a Class 2 misdemeanor. In addition to any penalties imposed hereunder, the city may institute legal action to enjoin the continuing violation of this section and may remove or contract for the removal of such trash, garbage, refuse, litter or similar substances or grass, weeds, brush or similar vegetation, in which event the cost and expenses thereof, including an administrative fee in the amount of one hundred dollars (\$100.00), shall be chargeable to and paid by the owner or occupant of the land or premises. Any such charge which is not paid within thirty (30) days of the date on which it is billed to the owner of such land or premises shall constitute a lien upon the property and may be collected in any manner provided by law for the collection of taxes; provided, however, that no such lien shall be valid against any owner of land or premises who was not served with the notice prescribed in subsection (a) or (b) hereinabove, as the case may be.

(e) The provisions of this section shall not apply to any parcel of land greater than one (1) acre in size which is (1) located in an agricultural zoning district or enrolled in the land use assessment program and (2) used principally for agricultural, silvicultural or horticultural purposes.

(f) The provisions of subsection (b) shall not apply to the following areas:

- (1) Portions of undeveloped lots, parcels or tracts of land which are not located within one hundred fifty (150) feet of a paved road;
- (2) Portions of undeveloped lots, parcels or tracts of land which are not located within one hundred fifty (150) feet of any other property, developed or undeveloped, located in a Residential, Apartment, Business, Office, Resort Tourist or Industrial Zoning District;
- (3) Portions of undeveloped lots, parcels or tracts of land which are inaccessible to power mowing equipment;
- (4) Areas required by the Chesapeake Bay Preservation Area Ordinance [appendix F] or the Southern Watersheds Management Ordinance [appendix G] to be vegetated;
- (5) Vegetated wetlands, as defined in the Wetlands Zoning ordinance [appendix A, article 14];
- (6) Nontidal wetlands located within Resource Protection Areas;
- (7) Coastal primary sand dunes;
- (8) State-designated Wildlife Habitat Areas;
- (9) Banks of detention ponds, streams, and other bodies of water, natural or manmade;
- (10) Banks of drainage easements;
- (11) Wooded areas, including understory vegetation; and

(12) Any other area required to be vegetated by reason of the application of the City Zoning Ordinance [appendix A], Subdivision Ordinance [appendix B], Site Plan Ordinance [appendix C], Stormwater Management Ordinance [appendix D], Chesapeake Bay Preservation Area Ordinance [appendix F], Southern Watersheds Management Ordinance [appendix G], or any other ordinance or provision of law.

(g) As used in this section, the term "developed" shall refer to any lot, parcel or tract of land upon any portion of which there has been placed any building, structure or other improvement or upon any portion of which there has been any land-disturbing activity, including, without limitation, paving, filling, grading, dredging, clearing or excavating.

(Code 1965, §§ 17-25, 17-26, 17-28, 17-30--17-32; Ord. No. 1016, § 17-12(A), 1-14-81; Ord. No. 1232, 11-2-81; Ord. No. 1750, 12-7-87; Ord. No. 1918, 10-2-89; Ord. No. 1952, 5-7-90; Ord. No. 2197, 12-8-92; Ord. No. 2469, 1-13-98; Ord. No. 2645, 6-26-01)

Cross references: Solid waste, Ch. 31.

Sec. 23-50.1. Removal of certain trees.

(a) Upon determination by the code enforcement administrator or the city arborist, or the officers or employees of their respective departments, that there exists upon any land or premises within the city any tree which, by reason of disease, death, injury, infirmity or other condition, presents a danger to property or to the health and safety of persons or other trees or vegetation, notice shall be served upon the owner of such land or premises or his or her agent or upon the occupant thereof to cause such tree to be removed within a reasonable period of time, not less than seven (7) days nor more than thirty (30) days, specified in such notice. If the danger presented by such tree may be eliminated by the removal of a portion of such tree, the notice shall specify the portion or portions of the tree to be so removed. For purposes of this section, the term "tree" shall be construed to include the plural of the term.

(b) Service of the notice provided for herein shall be by personal service or by certified or registered mail. In the event the land or premises are vacant and the owner thereof or his or her agent cannot be found by the exercise of due diligence, such notice shall be given by certified or registered mail to the last-known residence or post office box address of the owner and, in addition thereto, shall be posted in a conspicuous place upon the premises. Service of such notice upon one owner or occupant in any manner provided for herein shall be sufficient in the event such land or premises is owned or occupied jointly.

(c) Failure to comply with the terms of a notice issued and served as provided in this section within the time prescribed by such notice shall be punishable as a Class 4 misdemeanor. In addition to any fine imposed hereunder, the code enforcement administrator may, in the name of the city, institute legal action to enjoin the continuing violation of this section and may remove or contract for the removal of any such tree or portion thereof, in which event the cost of such removal, including an administrative fee in the amount of one hundred dollars (\$100.00), shall be charged to the person or persons named in the notice and collected by action at law or as delinquent real estate taxes are collected, or both. The remedies provided for herein shall be cumulative in nature.

(d) The provisions of this section shall not apply to any parcel of land greater than one acre in size which is located in an agricultural zoning district and used principally for agricultural or horticultural purposes.

(Ord. No. 1675, 4-13-87; Ord. No. 1919, 10-2-89; Ord. No. 1931, 10-23-89; Ord. No. 2130, 5-12-92; Ord. No 2469, 1-13-98)